

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:92CR36-06-GCM**

UNITED STATES OF AMERICA,)
PLAINTIFF,)
)
v.) ORDER
)
JAIME RODRIGUEZ,)
a.k.a. JOSE RIVERA,)
DEFENDANT.)

THIS MATTER is before the court upon the defendant's "Motion to be Given Prior Jail Credit Time," filed April 9, 2010. For the reasons stated below, the Motion is DENIED.

The defendant is currently incarcerated under two sentences running concurrently, one entered by the Southern District of Florida on May 2, 1994 and one entered by this Court on July 7, 1995. The defendant previously filed a motion claiming that because this Court failed to direct that its sentence be served coterminously with the May 1994 sentence, there is a 1 year, 2 month and 8 day-period of pre-trial detention for which the defendant will not receive credit on this Court's sentence. He then requested this Court to retroactively direct that his sentence be served coterminously with the May 1994 sentence. This Court denied that motion because it had no authority to grant such relief, and it continues to have no authority to grant such relief.

Pursuant to 18 U.S.C. § 3582, a sentence of imprisonment can be modified by a district court only when: 1) a motion for such modification is made by the Director of the Bureau of Prisons; 2) such a motion is properly brought pursuant to Rule of Federal Criminal Procedure 35; or 3) such a motion is made by an appropriate party based upon the lowering of the sentencing

range by the U.S. Sentencing Commission. Here, the defendant provides no information to suggest that any of these provisions apply to this case. Therefore, the motion is DENIED.

IT IS THEREFORE ORDERED that defendant's motion is hereby DENIED.

Signed: May 12, 2010



Graham C. Mullen
United States District Judge

